IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1195 OF 2007.
IN
FIRST APPEAL NO.1788 OF 2006.

Shri Dwarkanath Vyankatrao Karanjkar ...Applicant

Versus

Shri Bhiku @ Jagannath Vynakoba Karanjkar & Ors. ...Respondents

Shri Dilip Bodake for the Applicant.

Shri Ravi Kadam i/by Shri R.A.Thorat for the Respondents.

CORAM : ABHAY S.OKA, J.
DATED : 03rd December, 2007.

P.C.:

1. Heard advocate for the applicant and advocate for the 2nd and 3rd respondents. The advocate for the applicant states that the 1st respondent is duly served with private notice and affidavit of service has been filed.

2. The prayer in this application is under Rule 4 Order XXII of the Code of Civil Procedure, 1908 for granting exemption to the Applicant (original appellant) from bringing the heirs and legal representatives of the deceased 4th and 5th respondents (original 4th and 5th defendant). It is stated that on 17th December, 1994 the said defendants have executed a separate Deeds of

Gift, in favour of the applicant and by the said Deeds of Gift they have transferred their respective shares in the suit property in favour of the applicant. He invited my attention to the finding recorded by the trial Court on issue No.1 accepting the said case made out by the 4th and 5th respondents in their written statement.

3. There is no cross-appeal or cross-objection filed in the matter. The advocate for 2nd and 3rd respondents has no objection if prayer made in this application is granted.

4. Considering the aforesaid facts, application is allowed in terms of prayer clause (a).

JUDGE